

117TH CONGRESS  
1ST SESSION

# H. R. 1392

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IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

Received; read twice and referred to the Committee on Foreign Relations

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## AN ACT

To protect Saudi dissidents in the United States, and for  
other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protection of Saudi  
3 Dissidents Act of 2021”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Jamal Khashoggi, a United States resident,  
7 Saudi journalist, and Washington Post columnist,  
8 was killed and dismembered in the Saudi consulate  
9 in Istanbul, Turkey on October 2, 2018.

10 (2) At the time of his murder, Khashoggi was  
11 living in Virginia under an “O” visa and was in the  
12 process of applying for a permanent residency.

13 (3) A report by the Office of the Director of  
14 National Intelligence (ODNI) found that Saudi Ara-  
15 bia’s Crown Prince Muhammad bin Salman ap-  
16 proved an operation in Istanbul, Turkey to capture  
17 or kill Khashoggi.

18 (4) The assessment of the ODNI was based on  
19 “the Crown Prince’s control of decisionmaking in  
20 the Kingdom, the direct involvement of a key adviser  
21 and members of Muhammad bin Salman’s protective  
22 detail in the operation, and the Crown Prince’s sup-  
23 port for using violent measures to silence dissidents  
24 abroad”.

1           (5) The report also reiterates that “the Crown  
2           Prince has had absolute control of the Kingdom’s se-  
3           curity and intelligence organizations” since 2017.

4 **SEC. 3. RESTRICTIONS ON TRANSFERS OF DEFENSE ARTI-**  
5 **CLES AND SERVICES, DESIGN AND CON-**  
6 **STRUCTION SERVICES, AND MAJOR DEFENSE**  
7 **EQUIPMENT TO SAUDI ARABIA.**

8           (a) INITIAL PERIOD.—During the 120-day period be-  
9           ginning on the date of the enactment of this Act, the  
10          President may not sell, authorize a license for the export  
11          of, or otherwise transfer any defense articles or defense  
12          services, design and construction services, or major de-  
13          fense equipment under the Arms Export Control Act (22  
14          U.S.C. 2751 et seq.) to an intelligence, internal security,  
15          or law enforcement agency or instrumentality of the Gov-  
16          ernment of Saudi Arabia, or to any person acting as an  
17          agent of or on behalf of such agency or instrumentality.

18          (b) SUBSEQUENT PERIODS.—

19                 (1) IN GENERAL.—During the 120-day period  
20                 beginning after the end of the 120-day period de-  
21                 scribed in subsection (a), and each 120-day period  
22                 thereafter, the President may not sell, authorize a li-  
23                 cense for the export of, or otherwise transfer any de-  
24                 fense articles or services, design and construction  
25                 services, or major defense equipment under the

1 Arms Export Control Act (22 U.S.C. 2751 et seq.),  
2 regardless of the amount of such articles, services,  
3 or equipment, to an intelligence, internal security, or  
4 law enforcement agency or instrumentality of the  
5 Government of Saudi Arabia, or to any person act-  
6 ing as an agent of or on behalf of such agency or  
7 instrumentality, unless the President has submitted  
8 to the chairman and ranking member of the appro-  
9 priate congressional committees a certification de-  
10 scribed in paragraph (2).

11 (2) CERTIFICATION.—A certification described  
12 in this paragraph is a certification that contains a  
13 determination of the President that, during the 120-  
14 day period preceding the date of submission of the  
15 certification, the United States Government has not  
16 determined that the Government of Saudi Arabia  
17 has conducted any of the following activities:

18 (A) Forced repatriation, intimidation, or  
19 killing of dissidents in other countries.

20 (B) The unjust imprisonment in Saudi  
21 Arabia of United States citizens or aliens law-  
22 fully admitted for permanent residence or the  
23 prohibition on these individuals and their family  
24 members from exiting Saudi Arabia.

1 (C) Torture of detainees in the custody of  
2 the Government of Saudi Arabia.

3 (c) EXCEPTION.—The restrictions in this section  
4 shall not apply with respect to the sale, authorization of  
5 a license for export, or transfer of any defense articles or  
6 services, design and construction services, or major de-  
7 fense equipment under the Arms Export Control Act (22  
8 U.S.C. 2751 et seq.) for use in—

9 (1) the defense of the territory of Saudi Arabia  
10 from external threats; or

11 (2) the defense of United States military or dip-  
12 lomatic personnel or United States facilities located  
13 in Saudi Arabia.

14 (d) WAIVER.—

15 (1) IN GENERAL.—The President may waive  
16 the restrictions in this section if the President sub-  
17 mits to the appropriate congressional committees a  
18 report not later than 15 days before the granting of  
19 such waiver that contains—

20 (A) a determination of the President that  
21 such a waiver is in the vital national security  
22 interests of the United States; and

23 (B) a detailed justification for the use of  
24 such waiver and the reasons why the restric-  
25 tions in this section cannot be met.

1           (2) FORM.—The report required by this sub-  
2           section shall be submitted in unclassified form, but  
3           may contain a classified annex.

4           (e) SUNSET.—This section shall terminate on the  
5           date that is 3 years after the date of the enactment of  
6           this Act.

7           (f) APPROPRIATE CONGRESSIONAL COMMITTEES DE-  
8           FINED.—In this section, the term “appropriate congres-  
9           sional committees” means—

10           (1) the Committee on Foreign Affairs, the Per-  
11           manent Select Committee on Intelligence, and the  
12           Committee on Armed Services of the House of Rep-  
13           resentatives; and

14           (2) the Committee on Foreign Relations, the  
15           Select Committee on Intelligence, and the Com-  
16           mittee on Armed Services of the Senate.

17 **SEC. 4. REPORT ON CONSISTENT PATTERN OF ACTS OF IN-**  
18 **TIMIDATION OR HARASSMENT DIRECTED**  
19 **AGAINST INDIVIDUALS IN THE UNITED**  
20 **STATES.**

21           (a) FINDINGS.—Congress finds the following:

22           (1) Section 6 of the Arms Export Control Act  
23           (22 U.S.C. 2756) states that “no transfers or letters  
24           of offer may be issued, no credits or guarantees may  
25           be extended, and no export licenses may be issued

1 under this Act with respect to any country deter-  
2 mined by the President to be engaged in a consistent  
3 pattern of acts of intimidation or harassment di-  
4 rected against individuals in the United States”.

5 (2) Section 6 of the Arms Export Control Act  
6 further requires the President to report any such de-  
7 termination promptly to the Speaker of the House of  
8 Representatives, the Committee on Foreign Affairs  
9 of the House of Representatives, and to the chair-  
10 man of the Committee on Foreign Relations of the  
11 Senate.

12 (b) REPORT.—Not later than 60 days after the date  
13 of the enactment of this Act, the President shall submit  
14 to the appropriate congressional committees a report on—

15 (1) whether any official of the Government of  
16 Saudi Arabia engaged in a consistent pattern of acts  
17 of intimidation or harassment directed against  
18 Jamal Khashoggi or any individual in the United  
19 States; and

20 (2) whether any United States-origin defense  
21 articles were used in the activities described in para-  
22 graph (1).

23 (c) FORM.—The report required by subsection (b)  
24 shall be submitted in unclassified form but may contain  
25 a classified annex.

1 (d) APPROPRIATE CONGRESSIONAL COMMITTEES  
2 DEFINED.—In this section, the term “appropriate con-  
3 gressional committees” means—

4 (1) the Committee on Foreign Affairs and the  
5 Permanent Select Committee on Intelligence of the  
6 House of Representatives; and

7 (2) the Committee on Foreign Relations and  
8 the Select Committee on Intelligence of the Senate.

9 **SEC. 5. REPORT AND CERTIFICATION WITH RESPECT TO**  
10 **SAUDI DIPLOMATS AND DIPLOMATIC FACILI-**  
11 **TIES IN THE UNITED STATES.**

12 (a) REPORT.—Not later than 120 days after the date  
13 of the enactment of this Act, the President shall submit  
14 to the appropriate congressional committees a report cov-  
15 ering the three-year period preceding such date of enact-  
16 ment regarding whether and to what extent covered per-  
17 sons used diplomatic credentials, visas, or covered facilities  
18 to facilitate monitoring, tracking, surveillance, or harass-  
19 ment of, or harm to, other nationals of Saudi Arabia living  
20 in the United States.

21 (b) CERTIFICATION.—

22 (1) IN GENERAL.—Not later than 120 days  
23 after the date of the enactment of this Act, and each  
24 120-day period thereafter, the President shall, if the  
25 President determines that such is the case, submit



1 to the appropriate congressional committees a cer-  
2 tification that the United States Government has  
3 not determined covered persons to be using diplo-  
4 matic credentials, visas, or covered facilities to facili-  
5 tate serious harassment of, or harm to, other nation-  
6 als of Saudi Arabia living in the United States dur-  
7 ing the time period covered by each such certifi-  
8 cation.

9 (2) FAILURE TO SUBMIT CERTIFICATION.—If  
10 the President does not submit a certification under  
11 paragraph (1), the President shall—

12 (A) close one or more covered facilities for  
13 such period of time until the President does  
14 submit such a certification; and

15 (B) submit to the appropriate congress-  
16 sional committee a report that contains—

17 (i) a detailed explanation of why the  
18 President is unable to make such a certifi-  
19 cation;

20 (ii) a list and summary of engage-  
21 ments of the United States Government  
22 with the Government of Saudi Arabia re-  
23 garding the use of diplomatic credentials,  
24 visas, or covered facilities described in  
25 paragraph (1); and

1 (iii) a description of actions the  
2 United States Government has taken or in-  
3 tends to take in response to the use of dip-  
4 lomatic credentials, visas, or covered facili-  
5 ties described in paragraph (1).

6 (c) FORM.—The report required by subsection (a)  
7 and the certification and report required by subsection (b)  
8 shall be submitted in unclassified form but may contain  
9 a classified annex.

10 (d) WAIVER.—

11 (1) IN GENERAL.—The President may waive  
12 the restrictions in this section if the President sub-  
13 mits to the appropriate congressional committees a  
14 report not later than 15 days before the granting of  
15 such waiver that contains—

16 (A) a determination of the President that  
17 such a waiver is in the vital national security  
18 interests of the United States; and

19 (B) a detailed justification for the use of  
20 such waiver and the reasons why the restric-  
21 tions in this section cannot be met.

22 (2) FORM.—The report required by this sub-  
23 section shall be submitted in unclassified form, but  
24 may contain a classified annex.

1 (e) SUNSET.—This section shall terminate on the  
2 date that is 3 years after the date of the enactment of  
3 this Act.

4 (f) DEFINITIONS.—In this section:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
6 TEES.—The term “appropriate congressional com-  
7 mittees” means—

8 (A) the Committee on Foreign Affairs and  
9 the Permanent Select Committee on Intelligence  
10 of the House of Representatives; and

11 (B) the Committee on Foreign Relations  
12 and the Select Committee on Intelligence of the  
13 Senate.

14 (2) COVERED FACILITY.—The term “covered  
15 facility” means a diplomatic or consular facility of  
16 Saudi Arabia in the United States.

17 (3) COVERED PERSON.—The term “covered  
18 person” means a national of Saudi Arabia  
19 credentialed to a covered facility.

20 **SEC. 6. REPORT ON THE DUTY TO WARN OBLIGATION OF**  
21 **THE GOVERNMENT OF THE UNITED STATES.**

22 (a) FINDINGS.—Congress finds that Intelligence  
23 Community Directive 191 provides that—

24 (1) when an element of the intelligence commu-  
25 nity of the United States collects or acquires credible

1 and specific information indicating an impending  
2 threat of intentional killing, serious bodily injury, or  
3 kidnapping directed at a person, the agency must  
4 “warn the intended victim or those responsible for  
5 protecting the intended victim, as appropriate” un-  
6 less an applicable waiver of the duty is granted by  
7 the appropriate official within the element; and

8 (2) when issues arise with respect to whether  
9 the threat information rises to the threshold of  
10 “duty to warn”, the directive calls for resolution in  
11 favor of warning the intended victim.

12 (b) REPORT.—Not later than 90 days after the date  
13 of the enactment of this Act, the Director of National In-  
14 telligence, in coordination with the heads of other relevant  
15 United States intelligence agencies, shall submit to the ap-  
16 propriate congressional committees a report with respect  
17 to—

18 (1) whether and how the intelligence community  
19 fulfilled its duty to warn Jamal Khashoggi of threats  
20 to his life and liberty pursuant to Intelligence Com-  
21 munity Directive 191; and

22 (2) in the case of the intelligence community  
23 not fulfilling its duty to warn as described in para-  
24 graph (1), why the intelligence community did not  
25 fulfill this duty.

1 (c) FORM.—The report required by subsection (b)  
2 shall be submitted in unclassified form but may contain  
3 a classified annex.

4 (d) DEFINITIONS.—In this section:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
6 TEES.—The term “appropriate congressional com-  
7 mittees” means—

8 (A) the Committee on Foreign Affairs and  
9 the Permanent Select Committee on Intelligence  
10 of the House of Representatives; and

11 (B) the Committee on Foreign Relations  
12 and the Select Committee on Intelligence of the  
13 Senate.

14 (2) DUTY TO WARN.—The term “duty to warn”  
15 has the meaning given that term in Intelligence  
16 Community Directive 191, as in effect on July 21,  
17 2015.

18 (3) INTELLIGENCE COMMUNITY.—The term  
19 “intelligence community” has the meaning given  
20 such term in section 3(4) of the National Security  
21 Act of 1947 (50 U.S.C. 3003(4)).

22 (4) RELEVANT UNITED STATES INTELLIGENCE  
23 AGENCY.—The term “relevant United States intel-  
24 ligence agency” means any element of the intel-  
25 ligence community that may have possessed intel-

1       ligence reporting regarding threats to Jamal  
2       Khashoggi.

3 **SEC. 7. DETERMINATION OF BUDGETARY EFFECTS.**

4       The budgetary effects of this Act, for the purpose of  
5 complying with the Statutory Pay-As-You-Go Act of 2010,  
6 shall be determined by reference to the latest statement  
7 titled “Budgetary Effects of PAYGO Legislation” for this  
8 Act, submitted for printing in the Congressional Record  
9 by the Chairman of the House Budget Committee, pro-  
10 vided that such statement has been submitted prior to the  
11 vote on passage.

Passed the House of Representatives April 21, 2021.

Attest:                   CHERYL L. JOHNSON,  
*Clerk.*